

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION**

RUSSELL S. SMITH,

Plaintiff,

v.

CADILLAC ACCOUNTS
RECEIVABLE MANAGEMENT,
INC,

Defendant.

No. 1:18-cv-13363-GCS-PTM

Honorable Judge George Caram
Steeh

Honorable Magistrate Patricia T.
Morris

**PLAINTIFF’S MOTION FOR LEAVE TO FILE
FIRST AMENDED COMPLAINT**

NOW COMES Russel S. Smith (“Plaintiff”), by and through his counsel, Sulaiman Law Group, Ltd., and pursuant to Fed. R. Civ. P. 15(a)(2), respectfully bringing this Motion for Leave to File First Amended Complaint, and in support thereof, states as follows:

1. On October 27, 2018, Plaintiff filed his complaint seeking redress for violations of the Fair Debt Collection Practices Act (“FDCPA”) and the Michigan Occupational Code (“MOC”). [Dkt. #1].

2. Through conversations with Defendant’s counsel, certain documentation was informally produced in connection with this matter.

3. Based on a review of that documentation, it became clear that there are additional violations of law which were not included in Plaintiff's original complaint.

4. Given these violations, Plaintiff's proposed Amended Complaint seeks to add claims against Defendant under the Telephone Consumer Protection Act ("TCPA") so as to encompass the entirety of Defendant's potential liability to Plaintiff.

5. Pursuant to Fed. R. Civ. Pro. 15(a)(2), a court should freely give a party leave to amend its pleading when justice requires. *Indep. Trust Corp. v. Steward Info. Servs. Corp.*, 665 F.3d 930, 943 (7th Cir. 2012).

6. "Rule 15(a) declares that leave to amend 'shall be freely given when justice so requires'; this mandate is to be heeded. If the underlying facts or circumstances relied upon by a plaintiff may be a proper subject of relief, he ought to be afforded an opportunity to test his claim on the merits.'" *Foman v. Davis*, 371 U.S. 178, 182 (1962).

7. Justice would be served if Plaintiff is granted leave to amend his Complaint, as it would allow Plaintiff the opportunity to seek relief for the invasions of his federally protected interests engaged in by Defendant.

8. Plaintiff's Motion for Leave is not brought for dilatory reasons or as the result of undue delay. This is Plaintiff's first request to amend his complaint, and the

amendment is designed to allow Plaintiff to adjudicate the full extent of his claims stemming from the facts serving as the basis for the instant cause of action.

9. Pursuant to E.D. Mich. L.R. 7.1, Plaintiff's counsel conferred with Defendant's counsel during which Plaintiff's counsel explained the nature of the instant motion and its legal basis. A concurrence regarding the relief sought was not obtained.

WHEREFORE, Plaintiff respectfully requests this Honorable Court to enter an order granting Plaintiff leave to file his First Amended Complaint.

Dated: February 19, 2019

Respectfully submitted,

/s/ Nathan C. Volheim

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Counsel for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on February 19, 2019, I electronically filed the foregoing with the Clerk of the Court for the United States District Court for the Eastern District of Michigan by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

/s/ Nathan C. Volheim

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